Comparison Chart of ERISA Provisions in H.R. 1102

ERISA Provision	Current Law	Title VI of H.R. 1102, as Reported by the Committee	How the Provision Helps Workers and Promotes Pensions
Participant Loans for Small Business Owners	Generally, plans may make loans to participants. But, prohibited transaction rules prevent sole proprietors, partners, and Subchapter S corporation shareholders from taking participant loans.	**Section 601 --** The prohibited transaction rules would be modified to allow for participant loans to sole proprietors, partners, and subchapter S corporation shareholders. **Passed by the House and Senate as Sec. 1202 of H.R. 2488, the "Taxpayer Refund and Relief Act of 1999, on August 5, 1999.**	By allowing loans to small business owners as well as their workers, small employers will have more incentive to create a pension plan for their workers (and themselves).
Reduced PBGC Premiums for New Small Employer Plans	Defined benefit plans are subject to a flat-rate premium of $19 per participant. Underfunded defined benefit plans are subject to an additional variable rate premium. There is no variable rate premium for the first year of a new defined benefit plan.	**Section 602 --** New defined benefit plans established by employers with 100 employees or less would only have to pay a $5 per participant PBGC premium for the first 5 years of the plan. No variable rate premium would be assessed during this period. **Passed by the House and Senate as Sec. 1209 of H.R. 2488.**	By lowering PBGC premiums, more small employers will be encouraged to offer pension plans to their workers.
Reduction of Additional PBGC Premiums for New Plans	Defined benefit plans are subject to a flat-rate premium of $19 per participant. Underfunded defined benefit plans are subject to an additional variable rate premium. There is no variable rate premium for the first year of a new defined benefit plan.	**Section 603--** Any variable rate premium that might be assessed against a new defined benefit plan established by a larger employer would be phased-in as follows: 0% for the first plan year; 20% for the second; 40% for the third; 60% for the fourth; 80% for the fifth, and 100% for the sixth and succeeding plan years. For employers who have 25 or fewer employees on the first day of the plan year, the additional premium for each participant would not exceed $5 multiplied by the number of participants in the plan as of the close of the preceding plan year. **Passed by the House and Senate as Sec. 1210 of H.R. 2488.**	This provision will help encourage the establishment of defined benefit pension plans. The number of single-employer defined benefit plans covered by PBGC has declined dramatically in recent years -- from 112,000 in 1985 to 43,000 in 1997. Moreover, employers that establish plans are not choosing defined benefit plans. The PBGC variable rate premium can be a disincentive to some employers.

Faster Vesting of Employer Matching Contributions	Employee contributions to a qualified plan are immediately vested. Employer matching contributions either must be fully vested after the employee has completed 5 years of service, or must become vested in increments of 20% for each year beginning with the third year of service, with full vesting after the employee has completed seven years of service.	**Section 604 --** Employer matching contributions would have to be vested under a maximum 3-year cliff or 6-year graded vesting schedule. In the case of graded vesting, vesting would have to begin with the employee's second year of service. **Passed by the House and Senate as Sec. 1223 of H.R. 2488.**	This allows workers to vest pension matching contributions sooner – allowing today's mobile workers to earn more pension money in a shorter time. Otherwise, workers could be with a company for 41/2 years and never get to keep the matching contributions from their employer to their 401(k).
Treatment of Forms of Distribution	Under the "anti-cutback rule," when a participant's benefits are transferred from one plan to another, the transferee plan must preserve all forms of distribution that were available under the transferor plan. The anti-cutback rule also provides that, without regard to a transfer, a plan may not eliminate forms of distribution.	**Section 605 --** An employee may elect to transfer benefits from one plan to another without requiring the transferee plan to preserve optional forms of benefits if the following requirements are satisfied: • The transfer was a direct transfer. • The transfer was authorized under the terms of both plans. • The transfer was pursuant to a voluntary election by the participant upon receipt of proper notice. • Spousal consent for the transfer, if required, was obtained. • The participant could have elected a lump sum distribution. In addition, under the proposal, except to the extent provided in regulations, a form of distribution in a DC plan may be eliminated with respect to a participant if 1) a lump sum distribution is available when the distribution form is being eliminated, and 2) such lump sum is based on the same or greater portion of the participant's account as the distribution form being eliminated. Treasury would also be directed to issue regulations. **Passed by the House and Senate as Sec. 1235 of H.R. 2488.**	The requirement that a plan preserve all forms of distribution significantly increases the cost of plan administration. This requirement also causes confusion among plan participants who can have separate parts of their retirement benefits subject to very different plan provisions. This change reduces plan cost by allowing employers that merge to offer basic plan options, but not every option offered by prior plans. Reduced plan costs means greater employee benefits, and more companies offering plans.

Employers May Disregard Rollovers for Purposes of Cash-Out Amounts	Terminated participants benefits may be cashed out if the nonforfeitable present value of such benefits does not exceed $5,000.	**Section 606** -- Permits a plan to ignore amounts attributable to rollover contributions when determining the cash-out amount. **Passed by the House and Senate as Sec. 1238 of H.R. 2488.**	By simplifying cash-out amount calculations, plans are encouraged to accept rollovers. And encouraging plans to accept rollovers is important to today's mobile workers.
Complete Repeal of 150% of Current Liability Funding Limit	Contributions to a defined benefit plan that exceed 150% of current liability are not tax deductible. This limit will phase up to 170% by 2005.	**Section 611** -- The limit would be phased-up in 5% increments beginning with the 2000 plan year. For plan years beginning after December 31, 2002, the current liability full funding limit would be completely repealed. **Passed by the House and Senate as Sec. 1241 of H.R. 2488.**	This allows plans to be more fully funded and actuarially sound. Thus, it enhances the security of workers and pensioners. The tax code previously arbitrarily limited funding as a way to raise tax revenue (since plan contributions are tax deductible).
Expansion of Missing Participants Program	The PBGC acts as a clearinghouse for benefits due to participants who cannot be located. When a defined benefit plan terminates, the plan may transfer the benefits of the missing participant to the PBGC, which then attempts to locate the participant.	**Section 612 --** The PBGC's missing participant program would be expanded to cover defined contribution plans. This expansion would be voluntary at the election of the plan sponsor. **Passed by the House and Senate as Sec. 1243 of H.R. 2488.**	This provision allows workers who have left a company to track down any 401(k) money they may have left behind and forgotten about.
Periodic Pension Benefits Statements	Upon the request of a participant, the plan administrator must provide a summary of the participant's benefits under the plan. A participant is not entitled to more than one benefit statement per year.	**Section 613 --** A benefit statement would have to be given to a defined contribution plan participant at least once a year. Statements would have to be provided to defined benefit plan participants at least once every three years. Alternatively, in the case of defined benefit plans, the employer could provide participants with notice of their right to request a benefit statement at least once a year.	This allows workers to better keep track of their pensions – and to better estimate how well prepared for retirement they are – by giving them regular pension benefit statements.
Waiver of Civil Penalties for Breach of Fiduciary Responsibility	Section 502(l) requires DOL to assess a 20% penalty for violations of part 4 of Title I of ERISA for breaches of fiduciary duty. The DOL is limited in its ability to reduce this penalty.	**Section 614 --** ERISA section 502(l) would be amended to make the assessment discretionary with DOL rather than mandatory. This change would allow DOL to refrain from assessing the 20% penalty in certain cases or to assess a lower amount.	This change, supported by DOL, encourages settlement of ERISA litigation – saving plans (and pensioners) money – by making the current DOL mandatory penalties discretionary.

401(k) Investment in Employer Stock and Employer Real Property	Section 1524 of the Taxpayer Relief Act of 1997 places certain limits on investment of employee salary reduction contributions in employer stock or employer real property.	**Section 615 --** The provision modifies the effective date of the rule excluding certain elective deferrals from the definition of individual account plan by providing that the rule does not apply to any elective deferral invested in assets consisting of qualifying employer securities, qualifying employer real property, or both, if such assets were acquired by the plan before January 1, 1999. **Passed by the House and Senate as Sec. 1246 of H.R. 2488.**	This corrects an oversight made last Congress in the Boxer amendment to TRA '97. This clarifies the law for the few companies that invest elective deferrals in real property – saving these companies from a costly divestment of assets.
Expanded 204(h) Notice Requirements (Significant Reduction of Benefit Accruals)	Participants must be notified of a plan amendment significantly reducing future benefit accruals at least 15 days before such amendment takes effect. The notice must be given after the plan sponsor has formally adopted the amendment. Treasury regulations provide that participants need not be given an individual statement detailing how their own benefits will be affected by the amendment.	**Section 616** -- Modifies ERISA Section 204(h) to require that affected participants be given a notice of a plan amendment significantly reducing future benefit accruals at least 30 days before the amendment takes effect. Such notice must include at least a summary of the amendment and a description of the reduction, but does not require an individual comparison statement. Further, the notice could be provided before the plan amendment is formally adopted. **Modified version giving regulatory authority to Treasury passed by the House and Senate as Sec. 1245 of H.R. 2488.**	This provision assures greater disclosure to workers of the impact on them of a company's change in the calculation of their future benefit accruals (such as a conversion from a traditional DB to a cash balance plan).
SAVER Act Technical Corrections	The SAVER Act convenes a National Summit on Retirement Savings at the White House, cohosted by the executive and legislative branches in 1998 and again in 2001 and 2005. The National Summit brings together experts in the fields of employee benefits and retirement savings, key leaders of government, and interested parties from the private sector and general public. The delegates are selected by the Congressional leadership and the President. The National Summit is a public-private partnership, receiving substantial funding from private sector contributions.	**Sec. 617** -- Technical amendments to the Savings Are Vital to Everyone's Retirement (SAVER) Act of 1997, regarding the administration of and delegate selection to future statutorily created National Summits on Retirement Savings.	This clarifies the administration of future National Summits. The SAVER Act promotes a pubic-private partnership to encourage individual retirement savings.

Transfer of Excess Defined Benefit Plan Assets for Retiree Health Benefits	Under 101(e)(3), 403(c)(1), and 408(b) of ERISA (and sec. 420 of the IRC) an employer may – subject to specific limitations and other requirements - transfer excess defined benefit plan assets to a retiree "health benefits account" without causing the transferred assets to be included in the employer's gross income and without subjecting the employer to the excise tax on reversions. This provision is set to expire on Dec. 31, 2000.	**Sec. 618** -- This amendment would extend the provision until October 1, 2009. Similar to sec. 407 of S. 1134. **Passed by the House and Senate as Sec. 1507 of H.R. 2488.**	This extension helps retirees, by permitting companies to use their excess pension assets to pay for retiree health care (something which they might not otherwise offer).
Model Spousal Consent Language and Qualified Domestic Relations Order	Plans must seek spousal consent for the waiver of a qualified joint and survivor annuity form of benefit or a qualified pre-retirement survivor annuity form of benefit. Plans must pay benefits in accordance with Qualified Domestic Relations Orders.	**Section 619 –** This requires the Secretary of Labor to develop model language for spousal consent forms and for qualified domestic relations orders.	This helps women involved in a divorce understand the rights they are being asked to waive.
Elimination of ERISA Double Jeopardy	ERISA allows the Department of Labor (DOL), a participant, a beneficiary or fiduciary to bring suit to recover losses to an employee benefit plan. If a claim is brought by a party other than the DOL, the DOL must be informed and may intervene in the case or may move independently against the party.	**Section 620 –** If the complaint in a suit brought on behalf of an employee benefit plan is served upon the DOL at least 90 days before the date of entry of final judgement and the DOL receives settlement notice consistent with Federal Rule 23, then the DOL would be barred from later litigating any claim against such person that was, or could have been, brought in that action with respect to the same plan.	This prevents companies from being subject to double jeopardy and keeps DOL from discouraging settlement of privately litigated suits.
Modification of Timing of Plan Valuations	The valuation date for a defined benefit plan for a plan year must generally be in the same plan year.	**Section 621 --** Defined benefit plans would be permitted to use a valuation date up to one year prior to the beginning of the plan year. The change would apply at the election of the employer but would not be available to an underfunded plan. **Passed by the House and Senate as Sec. 1251 of H.R. 2488.**	The change would promote sounder plan funding as well as facilitate predictable budgeting for plan contributions. Because valuations can be quite time consuming, the funding calculations for a year are not known until after the beginning of the year and often not until well into the year. This change allows for more accurate advance budgeting for pension contributions.

Rules for Substantial Owners Relating to Plan Terminations	"Substantial owners" are individuals who own more than 10% of a business. ERISA contains complicated rules governing the benefit earned by substantial owners when a plan is terminating.	**Section 622 --** The same five-year phase-in that currently applies to a participant who is not a substantial owner would apply to a substantial owner with less than a 50% ownership interest. For a majority owner, the phase-in would depend on the number of years the plan has been in effect, rather than on the number of years the owner has been a participant and the initial plan benefit. **Passed by the House and Senate as Sec. 1258 of H.R. 2488.**	The special substantial owner rules are inordinately complex and require plan documents going back as far as 30 years. The proposed changes address one of the reasons that small business owners give for not establishing defined benefit plans -- the inadequacy of PBGC guarantees for owners. This simplification would thus encourage more small businesses to offer pension plans.
Notice and Consent Period Regarding Distributions	Generally, benefits cannot be distributed before the later of age 62 or normal retirement age unless the participant consents no more than 90 days before benefit commencement. Also, information on the tax implications of rollovers must be given to the employee within 90 days of distribution.	**Section 623 --**The notice and consent period regarding distributions would be expanded from 90 days to 180 days.	This change would allow workers to plan for and request a pension distribution further in advance than currently permitted. Moreover, it is burdensome to ensure that distributions are not made more than 90 days after an explanation is provided or a consent is given; and the 90-day rules can result in the same explanation or consent being provided more than once.
Summary Annual Reports Made Elective	Within 210 days after the close of a plan's fiscal year, the plan administrator must provide certain information in a summary annual report.	**Section 624** -- SARs would no longer have to be distributed. Instead it would only have to be made available upon request.	The cost and burden of providing each plan participant and beneficiary receiving benefits with a paper copy of the summary annual report is not justified. This dispenses with distributing hundreds or thousands of copies of a document no one reads. This will save plans on administrative costs – meaning more money for participants.

Expanded Definition of Excess Benefit Plans	Unfunded excess benefit plans are exempt from ERISA. Currently, excess benefit plans are defined as plans which provide benefits in excess of the 415 limits.	**Section 625** -- The definition of excess benefit plans would be revised to include plans which provide benefits in excess of the 401(a)(17) or 415 limits.	Excess benefit plans have historically been useful in structuring arrangements that potentially benefit a significant range of employees, albeit without the tax advantages afforded to qualified plans. Some employees, especially middle managers, may be disadvantaged by one of the many new Code rules and limits. The proposed change will allow these middle managers to receive the same treatment as upper level management.
Suspension of Benefits Notice	When an employee continues to work beyond normal retirement age, or is reemployed after commencing benefits, a defined benefit plan may provide for a suspension of pension payments during the post normal retirement age employment period. DOL regulations require that affected participants be notified in writing of such suspension and that such notice include a copy of the relevant plan provisions.	**Section 626** -- DOL would be required to modify its regulations regarding suspension of benefits rules to eliminate the requirement of a written individual notice and instead require that the suspension of benefits rules be outlined in the summary plan description, except for individuals reentering the workforce. Those rejoining a former employer would still receive the existing notice of suspension.	This dispenses with individual notices going to workers on the day they turn 65 – a practice which often unduly alarms workers who believe they are being encouraged to retire by their employer. It also reduces another administrative burden.
Provisions Relating to Plan Amendments	Generally, there is a short time within which to make plan amendments to reflect amendments to the law. In addition, the anti-cutback rules can have the unintended consequence of preventing an employer from amending its plan to reflect a change in the law.	**Section 627 --** Amendments to a plan or annuity contract made pursuant to any amendment made by the Act would not be required to be made before the last day of the first plan year beginning on or after January 1, 2003. Operational compliance would, of course, be required with respect to all plans as of the applicable effective date of any amendment made by the Act. In addition, timely amendments to a plan or annuity contract made pursuant to any amendment made by the Act would be deemed to satisfy the anti-cutback rules. **Passed by the House and Senate as Sec. 1271 of H.R. 2488.**	This gives companies time to adapt to changes in the law, ensuring timely and easier compliance.

Reporting Simplification for Small Plans	A "one-participant retirement plan" that is not exempt from the annual report filing requirement is only required to file a simplified form, i.e., Form 5500-EZ. A one-participant plan is a plan that covers and benefits only certain owners (or such owners and their spouses) of the sponsoring employer and meets the following requirements: • The plan satisfies the section 410(b) coverage requirements without being aggregated with any other plan. • The plan does not cover a business that is a member of an affiliated service group, a controlled group of employers, or a group of businesses under common control. • The plan does not cover a business that leases employees.	**Section 628** -- A plan that covers fewer than 25 employees on the first day of the plan year would only be required to file a Form 5500-EZ, provided that the plan meets the three requirements with respect to the definition of a one-participant plan. **Passed by the House and Senate as Sec. 1256 of H.R. 2488. Section 1256 also raises from $100,000 to $250,000 the level at which one-participant retirement plans are exempt from the annual report filing requirement.**	This provision allows genuinely small employers to file a greatly simplified Form 5500 for their plan – reducing another administrative burden. This should be another incentive for small employers to start pension plans for their workers.